

AMENDED IN SENATE AUGUST 7, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2318

Introduced by Assembly Member Calderon

February 22, 2006

An act to amend Sections 7500.1, 7500.3, 7507.9, 7507.12, 7507.13, 7508.4 of the Business and Professions Code, and to amend Sections 14602.6 and 14602.7 of the Vehicle Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 2318, as amended, Calderon. Repossessors.

(1) Existing law, the Collateral Recovery Act, provides for the licensing and regulation of repossession agencies by the Department of Consumer Affairs. Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral. Existing law requires a licensee to prepare an inventory of the personal effects and to label and store the personal effects as specified for a minimum of 60 days in a secure manner.

This bill would require the licensee to note on the inventory if it cannot be determined whether the property is a personal effect or a part of the collateral. The bill would provide that, under this circumstance, the licensee or its agent would not be obligated to remove the item from the collateral, *unless the item can be removed without the use of tools*. The bill would also specify that if the debtor takes the position that an item is a personal effect, then the debtor is required to contact the legal owner to resolve the issue.

(2) Existing law authorizes the Director of the Department of Consumer Affairs to assess administrative fines against any

repossession agency licensee, qualified certificate holder, or registrant for specified prohibited acts, such as, but not limited to, failing to register registrants within 15 days. Under existing law, the fine is \$25 dollars for each of the first 2 violations and \$100 for each subsequent violation.

This bill would raise these fines to \$250 for each of the first 2 violations and \$1000 for each subsequent violation. The bill would specify that the money attributable to these administrative fines shall not be continuously appropriated.

(3) Existing law provides that a peace officer or, in certain other cases, a magistrate, may cause the removal and seizure of a vehicle, as specified. Existing law provides that a vehicle so seized may be impounded for 30 days. Under existing law, a vehicle removed and seized may be released to the legal owner or the legal owner's agent prior to the end of 30 days' impoundment, if certain conditions are met, including, but not limited to, the requirement that the legal owner or the legal owner's agent present either a lawful assignment, as defined, or an affidavit of repossession for the vehicle, and a security agreement or title showing proof of legal ownership for the vehicle.

This bill would instead require the legal owner or the legal owner's agent to present a copy of the assignment, as defined, and any one of the following: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title showing proof of legal ownership for the vehicle.

(4) Existing law defines assignment, among other things, as a written authorization by the legal owner, lienholder, lessor or lessee to skip trace, locate, or repossess or to collect money payment in lieu of repossession of, any collateral, including, but not limited to, collateral registered under the Vehicle Code that is subject to a security agreement that contains a repossession clause.

This bill would specify that an assignment also means, among other things, a written authorization by the agent of any of those persons, to take any of those actions with respect to any collateral. The bill would make technical, nonsubstantive, and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7500.1 of the Business and Professions
2 Code is amended to read:

3 7500.1. The following terms as used in this chapter have the
4 meaning expressed in this section.

5 (a) "Advertisement" means any written or printed
6 communication, including a directory listing, except a free
7 telephone directory listing that does not allow space for a license
8 number.

9 (b) "Assignment" means a written authorization by the legal
10 owner, lienholder, lessor or lessee, or the agent of any of them, to
11 skip trace, locate, or repossess or to collect money payment in
12 lieu of repossession of, any collateral, including, but not limited
13 to, collateral registered under the Vehicle Code that is subject to
14 a security agreement that contains a repossession clause.
15 "Assignment" also means a written authorization by an employer
16 to recover any collateral entrusted to an employee or former
17 employee if the possessor is wrongfully in possession of the
18 collateral. A photocopy, facsimile copy, or electronic copy of an
19 assignment shall have the same force and effect as an original
20 written assignment.

21 (c) "Bureau" means the Bureau of Security and Investigative
22 Services.

23 (d) "Chief" means the Chief of the Bureau of Security and
24 Investigative Services.

25 (e) "Collateral" means any vehicle, boat, recreational vehicle,
26 motor home, appliance, or other property that is subject to a
27 security agreement.

28 (f) "Combustibles" means any substance or article that is
29 capable of undergoing combustion or catching fire, or that is
30 flammable, if retained.

31 (g) "Dangerous drugs" means any controlled substances as
32 defined in Chapter 2 (commencing with Section 11053) of
33 Division 10 of the Health and Safety Code.

34 (h) "Deadly weapon" means and includes any instrument or
35 weapon of the kind commonly known as a blackjack, slungshot,
36 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or
37 revolver, or any other firearm, any knife having a blade longer

1 than five inches, any razor with an unguarded blade, and any
2 metal pipe or bar used or intended to be used as a club.

3 (i) “Debtor” means any person obligated under a security
4 agreement.

5 (j) “Department” means the Department of Consumer Affairs.

6 (k) “Director” means the Director of Consumer Affairs.

7 (l) “Health hazard” means any personal effects which if
8 retained would produce an unsanitary or unhealthful condition.

9 (m) “Legal owner” means a person holding a security interest
10 in any collateral that is subject to a security agreement, a lien
11 against any collateral, or an interest in any collateral that is
12 subject to a lease agreement.

13 (n) “Licensee” means an individual, partnership, limited
14 liability company, or corporation licensed under this chapter as a
15 repossession agency.

16 (o) “Multiple licensee” means a repossession agency holding
17 more than one repossession license under this chapter, with one
18 fictitious trade style and ownership, conducting repossession
19 business from additional licensed locations other than the
20 location shown on the original license.

21 (p) “Person” includes any individual, partnership, limited
22 liability company, or corporation.

23 (q) “Personal effects” means any property that is not the
24 property of the legal owner.

25 (r) “Private building” means and includes any dwelling,
26 outbuilding, or other enclosed structure.

27 (s) “Qualified certificate holder” or “qualified manager” is a
28 person who possesses a valid qualification certificate in
29 accordance with the provisions of Article 5 (commencing with
30 Section 7504) and is in active control or management of, and
31 who is a director of, the licensee’s place of business.

32 (t) “Registrant” means a person registered under this chapter.

33 (u) “Secured area” means and includes any fenced and locked
34 area.

35 (v) “Security agreement” means an obligation, pledge,
36 mortgage, chattel mortgage, lease agreement, deposit, or lien,
37 given by a debtor as security for payment or performance of his
38 or her debt, by furnishing the creditor with a recourse to be used
39 in case of failure in the principal obligation. “Security
40 agreement” also includes a bailment where an

1 employer-employee relationship exists or existed between the
2 bailor and the bailee.

3 (w) “Services” means any duty or labor to be rendered by one
4 person for another.

5 (x) “Violent act” means any act that results in bodily harm or
6 injury to any party involved.

7 (y) The amendments made to this section during the 2005–06
8 Regular Session shall not be deemed to exempt any person from
9 the provisions of this chapter.

10 SEC. 2. Section 7500.3 of the Business and Professions Code
11 is amended to read:

12 7500.3. A repossession agency shall not include any of the
13 following:

14 (a) Any bank subject to the jurisdiction of the Commissioner
15 of Financial Institutions of the State of California under Division
16 1 (commencing with Section 99) of the Financial Code or the
17 Comptroller of the Currency of the United States.

18 (b) Any person organized, chartered, or holding a license or
19 authorization certificate to make loans pursuant to the laws of
20 this state or the United States who is subject to supervision by
21 any official or agency of this state or the United States.

22 (c) An attorney at law in performing his or her duties as an
23 attorney at law.

24 (d) The legal owner of collateral that is subject to a security
25 agreement or a bona fide employee employed exclusively and
26 regularly by the legal owner of collateral that is subject to a
27 security agreement. With regard to collateral subject to
28 registration under the Vehicle Code, the legal owner shall be the
29 legal owner listed on the records of the Department of Motor
30 Vehicles.

31 (e) An officer or employee of the United States of America, or
32 of this state or a political subdivision thereof, while the officer or
33 employee is engaged in the performance of his or her official
34 duties.

35 (f)
36 A qualified certificate holder or a registrant when performing
37 services for, or on behalf of, a licensee.

38 SEC. 3. Section 7507.9 of the Business and Professions Code
39 is amended to read:

1 7507.9. Personal effects shall be removed from the collateral,
2 *including any personal effect that is mounted but detachable*
3 *from the collateral by a release mechanism.* A complete and
4 accurate inventory of the personal effects shall be made, and the
5 personal effects shall be labeled and stored by the licensee for a
6 minimum of 60 days in a secure manner, except those personal
7 effects removed by or in the presence of the debtor or the party in
8 possession of the collateral at the time of the repossession. If the
9 licensee or the licensee's agent cannot determine whether the
10 property attached to the collateral is a personal effect or a part of
11 the collateral, then that fact shall be noted on the inventory and
12 the licensee or agent shall not be obligated to remove the item
13 from the collateral, *unless the item can be removed without the*
14 *use of tools, in which case it shall be removed and inventoried.* If
15 the debtor takes the position that an item is a personal effect, then
16 the debtor shall contact the legal owner to resolve the issue.

17 (a) The date and time the inventory is made shall be indicated.
18 The permanent records of the licensee shall indicate the name of
19 the employee or registrant who performed the inventory.

20 (b) The following items of personal effects are items
21 determined to present a danger or health hazard when recovered
22 by the licensee and shall be disposed of in the following manner:

23 (1) Deadly weapons and dangerous drugs shall be turned over
24 to any law enforcement agency for retention. These items shall
25 be entered on the inventory and a notation shall be made as to the
26 date and the time and the place the deadly weapon or dangerous
27 drug was turned over to the law enforcement agency, and a
28 receipt from the law enforcement agency shall be maintained in
29 the records of the repossession agency.

30 (2) Combustibles shall be inventoried and noted as "disposed
31 of, dangerous combustible," and the item shall be disposed of in
32 a reasonable and safe manner.

33 (3) Food and other health hazard items shall be inventoried
34 and noted as "disposed of, health hazard," and disposed of in a
35 reasonable and safe manner.

36 (c) Personal effects may be disposed of after being held for at
37 least 60 days. The inventory, and adequate information as to
38 how, when, and to whom the personal effects were disposed of,
39 shall be filed in the permanent records of the licensee.

1 (d) The inventory shall include the name, address, business
2 hours, and telephone number of the repossession agency to
3 contact for recovering the personal effects and an itemization of
4 all personal effects removal and storage charges that will be
5 made by the repossession agency. The inventory shall also
6 include the following statement: "Please be advised that the
7 property listed on this inventory will be disposed of by the
8 repossession agency after being held for 60 days from the date of
9 this notice IF UNCLAIMED."

10 (e) The inventory shall be provided to a debtor not later than
11 48 hours after the recovery of the collateral, except that if:

12 (1) The 48-hour period encompasses a Saturday, Sunday, or
13 postal holiday, the inventory shall be provided no later than 72
14 hours after the recovery of the collateral.

15 (2) The 48-hour period encompasses a Saturday or Sunday and
16 a postal holiday, the inventory shall be provided no later than 96
17 hours after the recovery of the collateral.

18 (3) Inventory resulting from repossession of a yacht, motor
19 home, or travel trailer is such that it shall take at least four hours
20 to inventory, then the inventory shall be provided no later than 96
21 hours after the recovery of the collateral. When the 96-hour
22 period encompasses a Saturday, Sunday, or postal holiday, the
23 inventory shall be provided no later than 120 hours after the
24 recovery of the collateral.

25 (f) Environmental, Olympic, special interest, or other license
26 plates issued pursuant to Article 8 (commencing with Section
27 5000), Article 8.4 (commencing with Section 5060) or Article
28 8.5 (commencing with Section 5100) of Chapter 1 of Division 3
29 of the Vehicle Code that remain the personal effects of the debtor
30 shall be removed from the collateral and inventoried pursuant to
31 this section. If the plates are not claimed by the debtor within 60
32 days, they shall be effectively destroyed and the licensee shall,
33 within 30 days thereafter, notify the Department of Motor
34 Vehicles of their effective destruction on a form promulgated by
35 the chief that has been approved as to form by the Director of the
36 Department of Motor Vehicles.

37 (g) The notice may be given by regular mail addressed to the
38 last known address of the debtor or by personal service at the
39 option of the repossession agency.

1 (h) The debtor may waive the preparation and presentation of
2 an inventory if the debtor redeems the personal effects or other
3 personal property not covered by a security interest within the
4 time period for the notices required by this section and signs a
5 statement that he or she has received all the property.

6 (i) If personal effects or other personal property not covered
7 by a security agreement are to be released to someone other than
8 the debtor, the repossession agency may request written
9 authorization to do so from either the debtor or the legal owner.

10 (j) The inventory shall be a confidential document. A licensee
11 shall only disclose the contents of the inventory under the
12 following circumstances:

13 (1) In response to the order of a court having jurisdiction to
14 issue the order.

15 (2) In compliance with a lawful subpoena issued by a court of
16 competent jurisdiction.

17 (3) When the debtor has consented in writing to the release
18 and the written consent is signed and dated by the debtor
19 subsequent to the repossession and states the entity or entities to
20 whom the contents of the inventory may be disclosed.

21 SEC. 4. Section 7507.12 of the Business and Professions
22 Code is amended to read:

23 7507.12. With regard to collateral subject to registration
24 under the Vehicle Code, a repossession is complete when the
25 reposessor gains entry to the collateral or when the collateral
26 becomes connected to a tow truck or the reposessor's tow
27 vehicle, as those terms are defined in Section 615 of the Vehicle
28 Code.

29 SEC. 5. Section 7507.13 of the Business and Professions
30 Code is amended to read:

31 7507.13. (a) A licensed repossession agency is not liable for
32 the act or omission of a legal owner, debtor, lienholder, lessor or
33 lessee, or an agent of any of them, in making an assignment to it
34 or for accepting an assignment from any legal owner, debtor,
35 lienholder, lessor or lessee, or an agent of any of them, and is
36 entitled to indemnity from the legal owner, debtor, lienholder,
37 lessor or lessee for any loss, damage, cost, or expense, including
38 court costs and attorney's fees, that it may reasonably incur as a
39 result thereof. Nothing in this subdivision limits the liability of
40 any person for his or her tortious conduct.

(b) The legal owner, debtor, lienholder, lessor or lessee, or the agent of any of them, is not liable for any act or omission by a licensed repossession agency, or its agent, in carrying out an assignment and is entitled to indemnity from the repossession agency for any loss, damage, cost, or expense, including court costs and attorney's fees, that the legal owner, debtor, lienholder, lessor or lessee, or the agent of any of them, may reasonably incur as a result thereof. Nothing in this subdivision limits the liability of any person for his or her tortious conduct.

(c) The legal owner, debtor, lienholder, lessor or lessee, or the agent of any of them, is not guilty of a violation of Section 7502.1 or 7502.2 if, at the time of the assignment, the party making the assignment has in its possession a copy of the reposessor's current, unexpired repossession agency license, and a copy of the current, unexpired repossession agency's qualified manager's certificate, and does not have actual knowledge of any order of suspension or revocation of the license or certificate.

(d) Neither a licensed repossession agency nor a legal owner, debtor, lienholder, lessor or lessee, or an agent of any of them may, by any means, direct or indirect, express or implied, instruct or attempt to coerce the other to violate any law, regulation, or rule regarding the recovery of any collateral, including, but not limited to, the provisions of this chapter or Section 9609 of the Commercial Code.

SEC. 6. Section 7508.4 of the Business and Professions Code is amended to read:

7508.4. The director may assess administrative fines for any of the following prohibited acts:

(a) Conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, limited liability company, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, limited liability company, or corporation. The fine shall be one thousand dollars (\$1,000) for each violation.

(b) Aiding or abetting an unlicensed reposessor or assigning his or her license. "Assigning his or her license" means that no licensee shall permit a registrant, employee, or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business

1 for which a license is required under this chapter. The fine shall
2 be one thousand dollars (\$1,000) for each violation.

3 (c) Failing to register registrants within 15 days. The fine shall
4 be two hundred-fifty dollars (\$250) for each of the first two
5 violations and one thousand dollars (\$1000) for each violation
6 thereafter.

7 (d) Employing a person whose registration has expired or been
8 revoked, denied, suspended, or canceled, if the bureau has
9 furnished a listing of these persons to the licensee. The fine shall
10 be twenty-five dollars (\$25) for each violation.

11 (e) Failing to notify the bureau, within 30 days, of any change
12 in officers. A notice of warning shall be issued for the first
13 violation. Thereafter, the fine shall be twenty-five dollars (\$25)
14 for each violation.

15 (f) Failing to present the debtor with an itemized receipt of
16 payment, if payment is made in lieu of repossession. The fine
17 shall be twenty-five dollars (\$25) for the first violation and one
18 hundred dollars (\$100) for each violation thereafter.

19 (g) Failing to submit a notice regarding a violent act within
20 seven days pursuant to Section 7507.6 or to submit a copy of a
21 judgment awarded against the licensee for an amount of more
22 than the then prevailing maximum claim that may be brought in
23 small claims court within seven days pursuant to Section 7507.7.
24 The fine shall be twenty-five dollars (\$25) for the first violation
25 and one hundred dollars (\$100) per violation thereafter.

26 (h) Failing to include the licensee's name, address, and license
27 number in any advertisement. A notice of warning shall be issued
28 for the first violation. Thereafter, the fine shall be twenty-five
29 dollars (\$25) for each violation.

30 (i) Failing to maintain personal effects for at least 60 days. The
31 fine shall be twenty-five dollars (\$25) for the first violation and
32 one hundred dollars (\$100) for each violation thereafter.

33 (j) Failing to provide a personal effects list or a notice of
34 seizure within the time limits set forth in Section 7507.9 or
35 7507.10. The fine shall be twenty-five dollars (\$25) for the first
36 violation and one hundred dollars (\$100) for each violation
37 thereafter.

38 (k) Failing to file the required report pursuant to Section 28 of
39 the Vehicle Code. The fine shall be twenty-five dollars (\$25) for

1 each of the first five violations and one hundred dollars (\$100)
2 for each violation thereafter, per audit.

3 (l) Failing to maintain an accurate record and accounting of
4 secure temporary registration forms. The qualified certificate
5 holder shall be fined twenty-five dollars (\$25) for the first
6 violation, one hundred dollars (\$100) for the second violation,
7 two hundred fifty dollars (\$250) for the third violation, and two
8 hundred fifty dollars (\$250) plus a one year suspension of the
9 privilege to issue temporary registrations pursuant to Section
10 7506.9 for the fourth and subsequent violations.

11 (m) Representing that a licensee has an office and conducts
12 business at a specific address when that is not the case. The fine
13 shall be five thousand dollars (\$5,000) for each violation.

14 (n) Notwithstanding any other provision of law, the money in
15 the Private Security Services Fund that is attributable to
16 administrative fines imposed pursuant to subdivision (c) shall not
17 be continuously appropriated and shall be available for
18 expenditure only upon appropriation by the Legislature.

19 SEC. 7. Section 14602.6 of the Vehicle Code is amended to
20 read:

21 14602.6. (a) (1) Whenever a peace officer determines that a
22 person was driving a vehicle while his or her driving privilege
23 was suspended or revoked, driving a vehicle while his or her
24 driving privilege is restricted pursuant to Section 13352 or 23575
25 and the vehicle is not equipped with a functioning, certified
26 interlock device, or driving a vehicle without ever having been
27 issued a driver's license, the peace officer may either
28 immediately arrest that person and cause the removal and seizure
29 of that vehicle or, if the vehicle is involved in a traffic collision,
30 cause the removal and seizure of the vehicle without the
31 necessity of arresting the person in accordance with Chapter 10
32 (commencing with Section 22650) of Division 11. A vehicle so
33 impounded shall be impounded for 30 days.

34 (2) The impounding agency, within two working days of
35 impoundment, shall send a notice by certified mail, return receipt
36 requested, to the legal owner of the vehicle, at the address
37 obtained from the department, informing the owner that the
38 vehicle has been impounded. Failure to notify the legal owner
39 within two working days shall prohibit the impounding agency
40 from charging for more than 15 days' impoundment when the

1 legal owner redeems the impounded vehicle. The impounding
2 agency shall maintain a published telephone number that
3 provides information 24 hours a day regarding the impoundment
4 of vehicles and the rights of a registered owner to request a
5 hearing.

6 (b) The registered and legal owner of a vehicle that is removed
7 and seized under subdivision (a) or their agents shall be provided
8 the opportunity for a storage hearing to determine the validity of,
9 or consider any mitigating circumstances attendant to, the
10 storage, in accordance with Section 22852.

11 (c) Any period in which a vehicle is subjected to storage under
12 this section shall be included as part of the period of
13 impoundment ordered by the court under subdivision (a) of
14 Section 14602.5.

15 (d) (1) An impounding agency shall release a vehicle to the
16 registered owner or his or her agent prior to the end of 30 days'
17 impoundment under any of the following circumstances:

18 (A) When the vehicle is a stolen vehicle.

19 (B) When the vehicle is subject to bailment and is driven by an
20 unlicensed employee of a business establishment, including a
21 parking service or repair garage.

22 (C) When the license of the driver was suspended or revoked
23 for an offense other than those included in Article 2
24 (commencing with Section 13200) of Chapter 2 of Division 6 or
25 Article 3 (commencing with Section 13350) of Chapter 2 of
26 Division 6.

27 (D) When the vehicle was seized under this section for an
28 offense that does not authorize the seizure of the vehicle.

29 (E) When the driver reinstates his or her driver's license or
30 acquires a driver's license and proper insurance.

31 (2) No vehicle shall be released pursuant to this subdivision
32 without presentation of the registered owner's or agent's
33 currently valid driver's license to operate the vehicle and proof of
34 current vehicle registration, or upon order of a court.

35 (e) The registered owner or his or her agent is responsible for
36 all towing and storage charges related to the impoundment, and
37 any administrative charges authorized under Section 22850.5.

38 (f) A vehicle removed and seized under subdivision (a) shall
39 be released to the legal owner of the vehicle or the legal owner's

1 agent prior to the end of 30 days' impoundment if all of the
2 following conditions are met:

3 (1) The legal owner is a motor vehicle dealer, bank, credit
4 union, acceptance corporation, or other licensed financial
5 institution legally operating in this state or is another person, not
6 the registered owner, holding a security interest in the vehicle.

7 (2) The legal owner or the legal owner's agent pays all towing
8 and storage fees related to the seizure of the vehicle. No lien sale
9 processing fees shall be charged to the legal owner who redeems
10 the vehicle prior to the 15th day of impoundment. Neither the
11 impounding authority nor any person having possession of the
12 vehicle shall collect from the legal owner of the type specified in
13 paragraph (1), or the legal owner's agent any administrative
14 charges imposed pursuant to Section 22850.5 unless the legal
15 owner voluntarily requested a poststorage hearing.

16 (3) The legal owner or the legal owner's agent presents a copy
17 of the assignment, as defined in subdivision (b) of Section 7500.1
18 of the Business and Professions Code, and any one of the
19 following: a certificate of repossession for the vehicle, a security
20 agreement for the vehicle, or title showing proof of legal
21 ownership for the vehicle. Any documents presented may be
22 originals, photocopies, or facsimile copies, or may be transmitted
23 electronically. The impounding agency shall not require any
24 documents to be notarized. The impounding agency may require
25 the agent of the legal owner to produce a photocopy or facsimile
26 copy of its repossession agency license or registration issued
27 pursuant to Chapter 11 (commencing with Section 7500) of
28 Division 3 of the Business and Professions Code, or to
29 demonstrate, to the satisfaction of the impounding agency, that
30 the agent is exempt from licensure pursuant to Section 7500.2 or
31 7500.3 of the Business and Professions Code.

32 No administrative costs authorized under subdivision (a) of
33 Section 22850.5 shall be charged to the legal owner of the type
34 specified in paragraph (1), who redeems the vehicle unless the
35 legal owner voluntarily requests a poststorage hearing. No city,
36 county, city or county, or state agency shall require a legal owner
37 or a legal owner's agent to request a poststorage hearing as a
38 requirement for release of the vehicle to the legal owner or the
39 legal owner's agent. The impounding agency shall not require
40 any documents other than those specified in this paragraph. The

1 impounding agency shall not require any documents to be
2 notarized.

3 (g) (1) A legal owner or the legal owner's agent that obtains
4 release of the vehicle pursuant to subdivision (f) may not release
5 the vehicle to the registered owner of the vehicle or any agents of
6 the registered owner, unless the registered owner is a rental car
7 agency, until after the termination of the 30-day impoundment
8 period.

9 (2) The legal owner or the legal owner's agent may not
10 relinquish the vehicle to the registered owner until the registered
11 owner or that owner's agent presents his or her valid driver's
12 license or valid temporary driver's license to the legal owner or
13 the legal owner's agent. The legal owner or the legal owner's
14 agent shall make every reasonable effort to ensure that the
15 license presented is valid.

16 (3) Prior to relinquishing the vehicle, the legal owner may
17 require the registered owner to pay all towing and storage
18 charges related to the impoundment and any administrative
19 charges authorized under Section 22850.5 that were incurred by
20 the legal owner in connection with obtaining custody of the
21 vehicle.

22 (h) (1) A vehicle removed and seized under subdivision (a)
23 shall be released to a rental car agency prior to the end of 30
24 days' impoundment if the agency is either the legal owner or
25 registered owner of the vehicle and the agency pays all towing
26 and storage fees related to the seizure of the vehicle.

27 (2) The owner of a rental vehicle that was seized under this
28 section may continue to rent the vehicle upon recovery of the
29 vehicle. However, the rental car agency may not rent another
30 vehicle to the driver of the vehicle that was seized until 30 days
31 after the date that the vehicle was seized.

32 (3) The rental car agency may require the person to whom the
33 vehicle was rented to pay all towing and storage charges related
34 to the impoundment and any administrative charges authorized
35 under Section 22850.5 that were incurred by the rental car
36 agency in connection with obtaining custody of the vehicle.

37 (i) Notwithstanding any other provision of this section, the
38 registered owner and not the legal owner shall remain responsible
39 for any towing and storage charges related to the impoundment,
40 any administrative charges authorized under Section 22850.5,

1 and any parking fines, penalties, and administrative fees incurred
2 by the registered owner.

3 (j) The impounding agency is not liable to the registered
4 owner for the improper release of the vehicle to the legal owner
5 or the legal owner's agent provided the release complies with the
6 provisions of this section.

7 SEC. 8. Section 14602.7 of the Vehicle Code is amended to
8 read:

9 14602.7. (a) A magistrate presented with the affidavit of a
10 peace officer establishing reasonable cause to believe that a
11 vehicle, described by vehicle type and license number, was an
12 instrumentality used in the peace officer's presence in violation
13 of Section 2800.1, 2800.2, 2800.3, or 23103, shall issue a warrant
14 or order authorizing any peace officer to immediately seize and
15 cause the removal of the vehicle. The warrant or court order may
16 be entered into a computerized database. A vehicle so impounded
17 may be impounded for a period not to exceed 30 days.

18 The impounding agency, within two working days of
19 impoundment, shall send a notice by certified mail, return receipt
20 requested, to the legal owner of the vehicle, at the address
21 obtained from the department, informing the owner that the
22 vehicle has been impounded and providing the owner with a
23 copy of the warrant or court order. Failure to notify the legal
24 owner within two working days shall prohibit the impounding
25 agency from charging for more than 15 days impoundment when
26 a legal owner redeems the impounded vehicle.

27 (b) (1) An impounding agency shall release a vehicle to the
28 registered owner or his or her agent prior to the end of the
29 impoundment period and without the permission of the
30 magistrate authorizing the vehicle's seizure under any of the
31 following circumstances:

32 (A) When the vehicle is a stolen vehicle.

33 (B) When the vehicle is subject to bailment and is driven by an
34 unlicensed employee of the business establishment, including a
35 parking service or repair garage.

36 (C) When the registered owner of the vehicle causes a peace
37 officer to reasonably believe, based on the totality of the
38 circumstances, that the registered owner was not the driver who
39 violated Section 2800.1, 2800.2, or 2800.3, the agency shall

1 immediately release the vehicle to the registered owner or his or
2 her agent.

3 (2) No vehicle shall be released pursuant to this subdivision,
4 except upon presentation of the registered owner's or agent's
5 currently valid driver's license to operate the vehicle and proof of
6 current vehicle registration, or upon order of the court.

7 (c) (1) Whenever a vehicle is impounded under this section,
8 the magistrate ordering the storage shall provide the vehicle's
9 registered and legal owners of record, or their agents, with the
10 opportunity for a poststorage hearing to determine the validity of
11 the storage.

12 (2) A notice of the storage shall be mailed or personally
13 delivered to the registered and legal owners within 48 hours after
14 issuance of the warrant or court order, excluding weekends and
15 holidays, by the person or agency executing the warrant or court
16 order, and shall include all of the following information:

17 (A) The name, address, and telephone number of the agency
18 providing the notice.

19 (B) The location of the place of storage and a description of
20 the vehicle, which shall include, if available, the name or make,
21 the manufacturer, the license plate number, and the mileage of
22 the vehicle.

23 (C) A copy of the warrant or court order and the peace
24 officer's affidavit, as described in subdivision (a).

25 (D) A statement that, in order to receive their poststorage
26 hearing, the owners, or their agents, are required to request the
27 hearing from the magistrate issuing the warrant or court order in
28 person, in writing, or by telephone, within 10 days of the date of
29 the notice.

30 (3) The poststorage hearing shall be conducted within two
31 court days after receipt of the request for the hearing.

32 (4) At the hearing, the magistrate may order the vehicle
33 released if he or she finds any of the circumstances described in
34 subdivision (b) or (e) that allow release of a vehicle by the
35 impounding agency. The magistrate may also consider releasing
36 the vehicle when the continued impoundment will cause undue
37 hardship to persons dependent upon the vehicle for employment
38 or to a person with a community property interest in the vehicle.

1 (5) Failure of either the registered or legal owner, or his or her
2 agent, to request, or to attend, a scheduled hearing satisfies the
3 poststorage hearing requirement.

4 (6) The agency employing the peace officer who caused the
5 magistrate to issue the warrant or court order shall be responsible
6 for the costs incurred for towing and storage if it is determined in
7 the poststorage hearing that reasonable grounds for the storage
8 are not established.

9 (d) The registered owner or his or her agent is responsible for
10 all towing and storage charges related to the impoundment, and
11 any administrative charges authorized under Section 22850.5.

12 (e) A vehicle removed and seized under subdivision (a) shall
13 be released to the legal owner of the vehicle or the legal owner's
14 agent prior to the end of the impoundment period and without the
15 permission of the magistrate authorizing the seizure of the
16 vehicle if all of the following conditions are met:

17 (1) The legal owner is a motor vehicle dealer, bank, credit
18 union, acceptance corporation, or other licensed financial
19 institution legally operating in this state or is another person, not
20 the registered owner, holding a financial interest in the vehicle.

21 (2) The legal owner or the legal owner's agent pays all towing
22 and storage fees related to the seizure of the vehicle. No lien sale
23 processing fees shall be charged to the legal owner who redeems
24 the vehicle prior to the 15th day of impoundment. Neither the
25 impounding authority nor any person having possession of the
26 vehicle shall collect from the legal owner of the type specified in
27 paragraph (1), or the legal owner's agent any administrative
28 charges imposed pursuant to Section 22850.5 unless the legal
29 owner voluntarily requested a poststorage hearing.

30 (3) The legal owner or the legal owner's agent presents a copy
31 of the assignment, as defined in subdivision (b) of Section 7500.1
32 of the Business and Professions Code, and any one of the
33 following: a certificate of repossession for the vehicle, a security
34 agreement for the vehicle, or title showing proof of legal
35 ownership for the vehicle. Any documents presented may be
36 originals, photocopies, or facsimile copies, or may be transmitted
37 electronically. The impounding agency shall not require any
38 documents to be notarized. The impounding agency may require
39 the agent of the legal owner to produce a photocopy or facsimile
40 copy of its repossession agency license or registration issued

1 pursuant to Chapter 11 (commencing with Section 7500) of
2 Division 3 of the Business and Professions Code, or to
3 demonstrate, to the satisfaction of the impounding agency, that
4 the agent is exempt from licensure pursuant to Section 7500.2 or
5 7500.3 of the Business and Professions Code.

6 No administrative costs authorized under subdivision (a) of
7 Section 22850.5 shall be charged to the legal owner of the type
8 specified in paragraph (1), who redeems the vehicle unless the
9 legal owner voluntarily requests a poststorage hearing. No city,
10 county, city and county, or state agency shall require a legal
11 owner or a legal owner's agent to request a poststorage hearing
12 as a requirement for release of the vehicle to the legal owner or
13 the legal owner's agent. The impounding agency shall not require
14 any documents other than those specified in this paragraph. The
15 impounding agency shall not require any documents to be
16 notarized.

17 (f) (1) A legal owner or the legal owner's agent that obtains
18 release of the vehicle pursuant to subdivision (e) shall not release
19 the vehicle to the registered owner of the vehicle or any agents of
20 the registered owner, unless a registered owner is a rental car
21 agency, until the termination of the impoundment period.

22 (2) The legal owner or the legal owner's agent shall not
23 relinquish the vehicle to the registered owner until the registered
24 owner or that owner's agent presents his or her valid driver's
25 license or valid temporary driver's license to the legal owner or
26 the legal owner's agent. The legal owner or the legal owner's
27 agent shall make every reasonable effort to ensure that the
28 license presented is valid.

29 (3) Prior to relinquishing the vehicle, the legal owner may
30 require the registered owner to pay all towing and storage
31 charges related to the impoundment and the administrative
32 charges authorized under Section 22850.5 that were incurred by
33 the legal owner in connection with obtaining the custody of the
34 vehicle.

35 (g) (1) A vehicle impounded and seized under subdivision (a)
36 shall be released to a rental car agency prior to the end of the
37 impoundment period if the agency is either the legal owner or
38 registered owner of the vehicle and the agency pays all towing
39 and storage fees related to the seizure of the vehicle.

1 (2) The owner of a rental vehicle that was seized under this
2 section may continue to rent the vehicle upon recovery of the
3 vehicle. However, the rental car agency shall not rent another
4 vehicle to the driver who used the vehicle that was seized to
5 evade a police officer until 30 days after the date that the vehicle
6 was seized.

7 (3) The rental car agency may require the person to whom the
8 vehicle was rented and who evaded the peace officer to pay all
9 towing and storage charges related to the impoundment and any
10 administrative charges authorized under Section 22850.5 that
11 were incurred by the rental car agency in connection with
12 obtaining custody of the vehicle.

13 (h) Notwithstanding any other provision of this section, the
14 registered owner and not the legal owner shall remain responsible
15 for any towing and storage charges related to the impoundment
16 and the administrative charges authorized under Section 22850.5
17 and any parking fines, penalties, and administrative fees incurred
18 by the registered owner.

19 (i) (1) This section does not apply to vehicles abated under the
20 Abandoned Vehicle Abatement Program pursuant to Sections
21 22660 to 22668, inclusive, and Section 22710, or to vehicles
22 impounded for investigation pursuant to Section 22655, or to
23 vehicles removed from private property pursuant to Section
24 22658.

25 (2) This section does not apply to abandoned vehicles
26 removed pursuant to Section 22669 that are determined by the
27 public agency to have an estimated value of three hundred dollars
28 (\$300) or less.

29 (j) The impounding agency shall not be liable to the registered
30 owner for the improper release of the vehicle to the legal owner
31 or the legal owner's agent provided the release complies with the
32 provisions of this section.